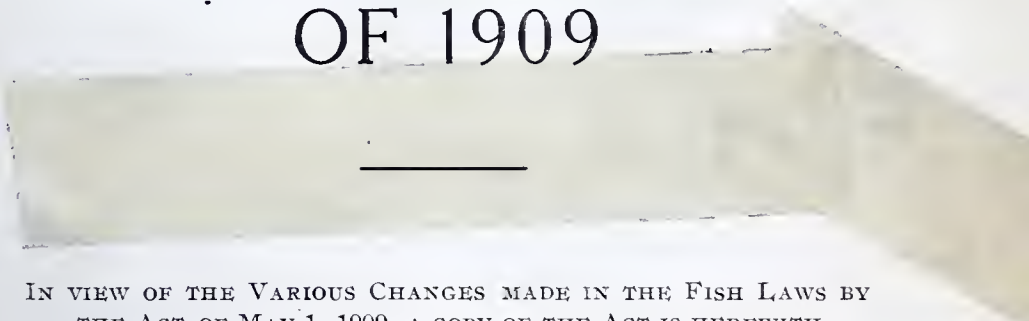


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DEPARTMENT OF FISHERIES

BULLETIN No. 6

THE NEW FISH CODE OF 1909



IN VIEW OF THE VARIOUS CHANGES MADE IN THE FISH LAWS BY
THE ACT OF MAY 1, 1909, A COPY OF THE ACT IS HEREWITH
PUBLISHED FOR THE INFORMATION OF COUNTY
TREASURERS, FISH WARDENS, PEACE
OFFICERS AND THE PUBLIC
GENERALLY

W. E. MEEHAN
COMMISSIONER OF FISHERIES

Issued May, 1909



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AN ACT

To classify the fish in the waters within this Commonwealth; declaring which are game fish, which are food fish, and which are bait fish, and to regulate the catching and sale and encourage the propagation of the same, to protect the waters within this Commonwealth from unfair, improper, wasteful, and destructive fishing, and to protect fish from being destroyed or injured by destructive means; to provide for the appointment of fish-wardens, and to declare their official powers and duties; to encourage and regulate the propagation of fish within this Commonwealth, and regulate the free distribution of the same by the Department of Fisheries, in the waters within the same; to define powers and duties of the Department of Fisheries; to regulate the sale and shipment of fish artificially propagated for profit; to forbid the sale of unlawful devices for catching fish; and to provide penalties and punishments for the violation of the provisions of this act, and providing how and by whom the costs shall be paid.

Section 1. Be it enacted, &c., That the fish within this Commonwealth are hereby designated and classified, for the purposes of this act, as follows; to wit, The following are classified as game fish: Charr, commonly called brook trout; all species of trout and of the salmon family; blue pike; pike-perch, otherwise known as Susquehanna salmon, or wall-eyed pike; pickerel, western pike; muscallonge; small-mouth bass, otherwise called black bass; large-mouth bass, otherwise called Oswego, green, or yellow bass; crappie, grass, strawberry, or calico bass; white bass; rock bass, otherwise known as red-eye, or goggle-eye; and all other species or varieties of fresh water fish, called or commonly known as bass, except striped bass, or rock fish, and fall fish. The following are classified as bait fish; to wit, All forms of minnows, all forms of killifishes, and stone catfish. That all other species or variety of fish, whatsoever, in the waters within this Commonwealth, are hereby classified as food fish.

Section 2. That it shall be unlawful to use any device, means, or method whatsoever, for taking fish from the waters within this Commonwealth, except the following; to wit, For game fish, with rods and lines, or with hand line, and for pickerel and yellow perch, also with tip-up, and for suckers, through the ice, with pole and burr hook; for bait fish, in any manner or at any time, except by use of poison or explosives; for food fish, with rods and lines and hand line, at any time of the year; outline, otherwise called set line; dip net, eel pot, or a fyke net, each without wings, a seine, or a fish basket: Provided, That nothing herein shall be held to apply to fishing with rod and line or hand line, unless the person fishing therewith shall have in possession any fish which may not law-

Species of fish.

Game fish.

Bait fish.

Food fish.

Lawful manner of fishing.

Providso.

Illegal possession.

Proviso.	fully be caught: And provided, That no device except a single rod and line shall be used by any person in waters inhabited by charr, or trout, except that in such waters suckers may be taken with pole and burr hook: And provided further, That in streams, not inhabited by trout, eels, carp, suckers, and mullets may be taken by the use of a gig or spear, during the months of July August September and October of each year: Provided further, That no person shall use, when fishing for pickerel or yellow perch, more than eight tip-ups: Provided also, That both rods and lines or hand line shall not have attached to it more than three hooks, and that one burr of three hooks shall be considered as one hook: Provided further, That the nets and devices, described hereinbefore as legal, may also be used under the conditions and regulations hereinafter set forth; but that nothing herein shall be held to forbid the use of the gaff or the landing-net to assist in landing fish already caught by lawful devices: Provided further, That no fishing of any kind, or with any device, shall be done by any person or persons on the first day of the week, commonly called Sunday. Any person violating any of the provisions of this section, shall, on conviction as provided in section twenty-seven of this act, be subject to a penalty of twenty dollars, except as hereinafter otherwise provided.
Devices in trout waters.	
Proviso.	
Eels, carp, suckers and mullets.	
Proviso.	
Tip-ups.	
Hooks.	
Proviso.	
Gaff and landing net.	
Proviso.	
Sunday fishing prohibited.	Section 3. That it shall be unlawful to fish for, or have in possession, the same being killed, charr, commonly called brook trout, or any species of trout except lake trout, from the first day of August to the fourteenth day of April next ensuing, both inclusive, except as provided in section eleven of this act; or blue pike, pike-perch, othewise called wall-eyed pike or Susquehanna salmon, and pickerel and yellow perch, from the first day of January to the fourteenth day of June, both dates inclusive; or any other game fish, from the first day of December to the fourteenth day of June next ensuing, both inclusive. It shall be unlawful also to catch and kill, or have in possession, the same being killed, any white bass, rock bass; crappie, strawberry, or calico bass, or any yellow perch; charr, otherwise called brook trout; or any species of trout, except lake trout, less than six inches in length; any black bass or small-mouth bass; large-mouth bass, otherwise called Oswego, or yellow bass; striped bass, otherwise called rock fish, lake or salmon trout, less than eight inches in length; or any blue pike, pike-perch, otherwise called wall-eyed pike, or Susquehanna salmon, or any pickerel, less than twelve inches in length; or any muscallonge or western pike, less than twenty-four inches in length; or any sturgeon less than five feet in length; and the measurement of said fish shall be from the tip of nose to the tip of the tail; and it
Violations.	
Penalty.	
Trout.	
Open season	
Blue pike, pike-perch, pickerel, and yellow perch.	
Length of fish which may be legally caught.	

shall be unlawful for any one person to catch, kill, or have in possession, the same being killed, more than forty charr, or trout; or more than twelve small or large-mouth bass; or more than twenty-five rock bass, white bass, calico bass, crappie, pickerel, blue pike, or pike-perch; or more than four muscallonge or western pike, in any one day. Any person violating any of the provisions of this section, shall, on conviction as provided in section twenty-seven of this act, be subject to a penalty of ten dollars for each and every fish so taken, caught, or had in possession: Provided, however, That no penalty in the aggregate shall exceed one hundred dollars: And Provided further, That no penalty shall be imposed if any fish, caught in violation of any provision of this act, is returned at once to the water from which it was taken, in the condition in which it was captured.

Section 4. It shall be unlawful to use fyke nets, eel pots, and dip nets from the first day of June to the thirtieth day of June, inclusive, except as provided in section five of this act; and it shall be unlawful to use such nets from the first day of July until thirty-first day of May of the year next ensuing, both dates inclusive, excepting for the capture of eels, catfish, suckers, mullets, and carp: Provided, That dip nets shall have meshes not less than two and one-half inches stretched measure, while being fished, or one and one-quarter inches from knot to knot; and that no fyke net, commonly called set net, or any eel pot, shall have any wings attached to either of them, or be set or fastened to any wing-walls, or within ten feet of any wing-walls, or be set within ten feet of each other, and the space between each net shall be free from all obstructions for the free passage of fish; or for any fyke net or eel pot to have an entrance into the funnel thereof of more than six inches, or with an outside diameter of the mouth or more than thirty inches, horizontal measurement; nor shall such nets be used in any streams inhabited by trout, at any time of the year; nor shall any such nets be set, fastened, or used from Saturday noon until Monday morning at six o'clock, of the week next ensuing: Provided further, That each fyke net or eel pot must have fastened thereon a metallic tag bearing the name and residence of the owner thereof. Any person violating any of the provisions of this section, shall, on conviction as provided in section twenty-seven of this act, be subject to a penalty of twenty dollars, together with the forfeiture of all boats, nets, and other appliances used, to the Department of Fisheries.

Section 5. It shall be unlawful to fish for herring, or alewife, or shad, excepting with rod and line, hand line, or with a haul seine, sometimes called a shore seine; or with a dip net, the meshes of which shall not

Number which
may be legally
taken.

Violations.

Penalty.

Proviso.

Limit of penalty.

Proviso.

Replaced fish.

Fyke nets, and
eel pots.

Close season.

Proviso.

Sizes of mesh.

Wing-walls.

Diameter of
mouth.

Proviso.

Tag.

Violations.

Penalty.

Forfeiture.

Herring, alewife,
and shad.

Nets.

Sturgeon.	be less than two and one-half inches stretched measure, or one and one quarter inches from knot to knot while being fished; or for sturgeon, with nets, the meshes of which shall not be less than thirteen inches while being fished; and it shall be unlawful to use said
Close season.	nets for shad, herring, or alewife, from the tenth day of June to the first day of March of the year next
Sunday fishing prohibited.	ensuing; and it shall be unlawful to fish with any nets of any kind from Saturday noon until Monday morn-
Proviso.	ing at six o'clock of the week next ensuing: Provided, That nothing in this section shall be so construed as
Carp and food fish.	to forbid the catching of carp and other food fish of legal size or weight, excepting sturgeon, in such nets,
Violations.	while being legally used for the catching of shad or herring or alewife. Any person violating any of the provisions of this section, shall, on conviction thereof
Penalty.	as provided in section twenty-seven of this act, be subject to a penalty of one hundred dollars, and shall forfeit to the Department of Fisheries all nets, boats, and appliances used.
Outlines.	Section 6. That it shall be unlawful to fish for fish of any kind in the waters of this Commonwealth, with outlines, commonly called set lines, or lines fastened or anchored at both ends, from the first day of Decem-
Close season.	ber until the first day of June in the year next ensuing, both dates inclusive. It shall be lawful for any person to use and operate such outlines, as described in this section, from the first day of June to the thir-
Open season; carp, suckers, mullets, catfish, and eels.	tieth day of November next ensuing, both dates inclusive, for the capture of carp, suckers, mullets, cat-
Proviso.	fish, and eels only: Provided that said outlines be sunk to the bottom, and be so weighted that the hooks shall
Weighted.	rest upon the bottom, and that cut or dead bait only shall be used: Provided further, That no one person
Limit of snoods.	shall use or attach to said outlines, in the aggregate, more than one hundred snoods, with not more than one hook attached to each: And provided, That during
Legal hours.	the season or period when it shall be lawful to operate outlines, for the capture of the fishes aforesaid, it may only be done from five o'clock in the evening until seven o'clock in the morning next ensuing, when said
Tags.	outlines must either be removed entirely from the water or the snoods or bait be detached and removed, unless it is shown to the satisfaction of the court that it was a physical impossibility to comply with this provision: And provided further, That the owner or operator of such outlines must either be present and exercise supervision over them or have attached to each line thereof a metallic tag bearing the name and address of the owner: Provided further, That any fish
Return of fish illegally taken.	other than those named in this section, when caught on such lines, shall be immediately removed therefrom and set free into the waters from which they were taken: And provided further, That no outline shall

be set or operated in any waters inhabited by trout. Any person violating any of the provisions of this section, shall, on conviction thereof as provided in section twenty-seven of this act, be subject to a penalty of twenty dollars, and shall forfeit to the Department of Fisheries all lines, boats, and other appliances used.

Trout waters.
Violations.
Penalty.

Section 7. That it shall be unlawful for any person or persons to place any device or object in the waters, within this Commonwealth, in such a manner as to obstruct the migration or passage of fish therein, or to obstruct any fishway; or to fish with nets or devices whatsoever, excepting rods and lines, within four hundred feet of any dam or fishway, or such distance as may be determined by the Commissioner of Fisheries, such determination to be plainly posted upon the fishway or adjacent shores; and any obstruction not permitted by existing laws, when found, shall be removed forthwith by any Fish Commissioner, fish warden, sheriff, or other peace officer; and no rods and lines shall be used for fishing within one hundred feet of the upper or lower end of any fishway. Any person violating any provisions of this section, shall, on conviction thereof as provided in section twenty-seven of this act, be subject to a penalty of fifty dollars.

Obstruction of migration, or fishways.
Fishing near dam or fishway.

Section 8. That it shall be unlawful to use fish baskets in the waters within or under the control of this Commonwealth from the first day of December to the fourteenth day of August next ensuing, each date inclusive; that it shall be lawful to use fish baskets from the fifteenth day of September to the thirteenth day of November in each year, both dates inclusive, and from four o'clock in the afternoon until eight o'clock on the following morning, for the capture of eels, and no fish basket shall be set or used in a stream known as a trout stream; and no wing-walls of any two baskets shall be within twenty feet of each other at the upper end, when side by side, or extend beyond each other at the upper end, or reach from main shore to main shore, or extend over more than three-fourths of the width of a stream, or occupy so much of the stream as to prevent the passage of canoes or boats and fish at either side of the stream, or be constructed of any other material than loose stones; and no basket and wing-walls shall be set immediately above one already legally located nearer than one-quarter of a mile: And provided, That the bottoms of the basket, so used, shall be made of well-rounded wooden slats, not more than two inches wide, so set or placed that they shall not be less than three-eighth of an inch apart when swollen by water: And provided further, That the bottoms of said baskets shall be movable for the entire width of each and every fall, or so much of said bottoms be movable as to leave not more than seven slats in one section; and such

Violations.
Penalty.
Fish baskets.
Close season.
Open season.
Eels.
Trout stream.
Wing-walls.
Location of
Proviso.
Construction of basket.

Bottoms.	bottoms, or parts of bottoms, shall be taken out of said falls, or so adjusted as to make it impossible for them to catch fish, from eight o'clock in the morning and kept out until four o'clock in the afternoon: And
Hours.	provided further, That the number of the license of said basket shall be clearly and permanently painted or marked on the sides thereof: Provided, That nothing in this section shall be so construed as to allow
Proviso.	any fish baskets to be erected and operated within a quarter of a mile of any fishway, chute, or opening in a dam, through which fish can pass when water is running through, raceways and mills excepted: And provided also, That before any person or persons shall be
Location.	authorized to catch or take eels by means of a fish basket, as described, he or they shall be required to take out a license from the treasurer of the county in which he or they propose to erect or construct any fish basket, in accordance with section twenty-one of this act, and no person shall be given a license for a fish basket for a spot or location for which a license was given another person the previous year, until the first day of the lawful season for using said basket, unless the licensee of the previous year shall have previously notified the county treasurer, in writing, of his intention not to renew his license: Provided That any person who shall neglect to take out a license for two years shall have no priority to such location: And provided also, That no license shall be granted for a fish basket in any stream without the written consent of the owner and occupant of the land on which it is proposed to place such basket: And provided further, That all baskets used or operated under the provisions of this section shall be entirely removed from the wing-walls, or dismantled or destroyed, within one week after the closing of the legal season: And provided also, That no person or persons shall operate said basket, in the absence of the owner or owners, except it be a member of his family, or a bona fide employe or employees of a member of his or their family; in which case the holder or holders of the certificate or license shall be held legally responsible for any violation of this section, or of any existing acts relating to fish or fishing, within this Commonwealth, by the use of said fish baskets: Provided further, That nothing in this section shall be so construed as to prevent the licensee or lawful operator keeping, besides eels, any carp, suckers, or mullets, but no other fish, which may be taken by the basket while lawfully used for catching eels: And provided further That at the end of the fishing season, each holder of a license shall furnish to the Department of Fisheries, on request of the Commissioner of Fisheries, a written report of the approximate number and weight of eels, carp, suckers, and mullets taken, together with the market value of
License.	
Proviso.	
Priority.	
Consent of owner.	
Proviso.	
Removal of baskets.	
Proviso.	
Who may operate.	
Responsibility.	
Proviso.	
Carp, suckers and mullets.	
Proviso.	
Report.	

the same, for statistical purposes. No individual report to be made public without the written consent of the licensee. Any person or persons violating any of the provisions of this section shall, on conviction, be subject to a fine of twenty-five dollars, as provided in section twenty-seven of this act, together with the forfeiture of any boats or appliances which may have been used, to the Department of Fisheries, and, in addition, be deprived of the right to secure another license for the period of two years; and this section shall apply to the River Delaware above Trenton Falls.

Violations.

Penalty.

Section 9. That any person, company, or corporation owning or maintaining a dam or dams, or who may hereafter erect or maintain a dam or dams, in the waters of this Commonwealth, shall immediately, on a written order from the Commissioner of Fisheries, erect therein such chutes, slopes, fishways, gates, or other device as the Board of Fishery Commissioners may decide necessary, to enable fish to ascend and descend the waters at all seasons of the year; and every such chute and other device, as aforesaid, shall be maintained, open and in good order and repair, by the person, company, or corporation owning or maintaining such dam, until said dam is removed, raised, or rebuilt; and any person, company, or corporation refusing or neglecting to comply with the provisions of this section, within three months from the date of such notice, shall forfeit and pay the sum of fifty dollars for every month he or they so neglect, which sum or sums shall be recovered by civil suit and process, in the name of the Commonwealth, and when collected shall be paid by the Commissioner of Fisheries into the Treasury of the Commonwealth. If, after the lapse of three calendar months, the person, company, or corporation owning or maintaining said dam or dams still neglect or refuse to erect or place, or maintain unchanged, open and in good order and repair, the appliance or appliances as directed by the Commissioner of Fisheries, the said commissioner is empowered to enter upon such dam or dams, and erect such slopes, chutes, fishways, or gates, or make such repairs as may have been directed as aforesaid; and the cost thereof shall be charged against the person, company, or corporation owning or maintaining such dam or dams, to be recovered by the Commissioner of Fisheries by civil suit and process, in the name of the Commonwealth: Provided, That where, by reason of any dam or dams having been constructed prior to any requirement by law of the placing of chutes, slopes, or fishways therein, or for any other reason, the owner or owners of, or person or persons maintaining, such dam or dams cannot be compelled by law to pay the cost of erecting slopes, chutes, or fishways, the cost of

Dams.

Chutes, slopes,
fishways, gates,
etc.

Fine.

Neglect or refusal.

Powers of Board.

Proviso.

Cost of construction.

erecting such slopes, chutes, and fishways by the Commissioner of Fisheries, as provided in this section, shall be paid by the Commonwealth of Pennsylvania, out of such funds as may be appropriated therefor: And provided further, That the chutes and other devices, aforesaid, may be closed for repair, or in time of low water, but such closing shall be only for a period of thirty days at any one time.

Section 10. That from and after the passage of this act, any person, company, or corporation owning or operating a raceway, flume, or inlet pipe, leading to a water wheel, turbine, pump, or canal, shall, immediately upon receipt of a written order from the Commissioner of Fisheries, place and maintain a bar rack, of not less than one inch nor more than one and one-half inch space between the bars in or near such raceway, flume, or inlet pipe, sufficient to prevent fish from entering therein. Any person, company, or corporation refusing or neglecting to comply with such order for a period of one month shall forfeit and pay the sum of fifty dollars, which shall be recovered by civil suit and process, in the name of the Commonwealth, and when collected shall be paid by the Commissioner of Fisheries into the State Treasury. If one month after notification, the person, company, or corporation, owning or operating such a raceway, flume, or inlet pipe, has not placed such bar rack, as may have been directed, the Commissioner of Fisheries is empowered to enter upon such raceway, flume, or inlet pipe, and place such bar rack, of not less than one inch nor more than one and one-half inch space between the bars; the cost thereof shall be charged against the said person, company, or corporation, and, if not promptly paid, such cost may be recovered by civil suit and process, in the name of the Commonwealth.

Section 11. That hereafter, before any person or persons, corporation or corporations, or partnership, limited or unlimited, shall engage in the artificial propagation of any species of game fish or food fish, for the purpose of selling the same, the said person or persons, corporation or corporations, or partnership, limited or unlimited, shall first apply to the Department of Fisheries for a license; and said person or persons, corporation or corporations, or partnership, limited or unlimited, shall fill out blanks supplied by the Department of Fisheries, setting forth answers to any questions which the said Department of Fisheries may put with reference to the size, character, and purpose of said plant; and if such answers promise and undertake that the applicant will conduct the business applied for according to law, and that no dams, ponds, or other devices, which will prevent the free migration of fish, are to be erected or placed by such applicant in any stream flowing over his or their property, and that

Proviso.

Closing for repairs, etc.

Bar rack at raceway, flume or inlet.

Neglect or refusal.

Fine.

Powers of Board.

The cost.

Artificial propagation.

Application for license.

the ponds on said plant are to be for commercial purposes, the said person or persons, corporation or corporations, or partnership, limited or unlimited, shall then pay a license fee of ten dollars to the Department of Fisheries. Thereupon the said Department of Fisheries shall issue a license to said person or persons, corporation or corporations, or partnership, limited or unlimited, to carry on the business of propagating and selling any species of game fish or food fish, or the eggs thereof, during the calendar year, that the holder or holders of said license may catch or kill game fish and food fish, from the ponds on their property, in any manner whatsoever, except with explosives or poisonous substances; or they may sell or dispose of, in any manner whatsoever, any species of such game fish or food fish, or the eggs thereof, at any time of the year; and express or railroad companies may carry and transport the same: Provided, That no fish shall be caught out of any stream flowing over the property of such person or persons, corporation or corporations, or partnership, limited or unlimited, holding such license, except in accordance with the provisions of sections two and three of this act: Provided, That with each sale of any species of game fish or food fish, there shall be furnished the purchaser a certificate or invoice of sale, bearing the date of sale, the number of the license, the number of fish or the number of pounds sold, or both; which said certificate or invoice must be shown by the holder, on demand, to any fish warden, clerk of the market, constable, or person authorized to make arrests for violation of the laws relating to fish and fishing within this Commonwealth; and the said certificate or invoice shall hold good for the period of six days from the date thereof. Any person or persons, corporation or corporations, or partnership, limited or unlimited, holding a license for conducting an establishment for the propagation of any species of game fish or food fish, shall mail a sworn statement, in writing, to the Department of Fisheries annually, on the first day of December, of the number of pounds and the number and value of game fish and food fish, or the eggs thereof, sold and disposed of during the year; and the property and books of said person or persons, corporation or corporations, or partnership, limited or unlimited, engaged in the propagation and sale of any species of game fish or food fish, or the eggs thereof, under the provisions of this section, shall be open to inspection by the Commissioner of Fisheries at all times; and said person or persons, corporation or corporations, or partnership, limited or unlimited, shall not in any manner stock or maintain their establishments by any species of charr, trout, or charr or trout

License fee.

License.

Proviso.

Lawful fishing.

Proviso.

Certificate or invoice.

Annual statement.

Inspection.

Trout eggs.

eggs, taken from any waters within this Commonwealth, not owned, occupied or controlled by them, excepting that they may exchange such eggs or the fry of any species of trout, or other game or food fish, with the Department of Fisheries. Any person or persons, corporation or corporations, or partnership, limited or unlimited, violating any of the provisions of this section, shall, on conviction thereof, be subject to a penalty of one hundred dollars for each and every offense, as provided in section twenty-seven of this act.

Violations. Section 12. That it shall be unlawful for any proprietor, manager, clerk, or agent of any market, hotel, boarding-house, eating-house, restaurant, or saloon, or any person, company, or corporation, in this Commonwealth, to purchase, sell, or expose for sale any charr, commonly called brook trout, or any species of trout; or contract with or employ any person or persons to catch and keep such fish for him or them, by the day or otherwise: Provided, That nothing in this section shall be so construed as to prevent any person company, or corporation from selling charr, commonly called brook or speckled trout, or any species of trout, bred or raised artificially, under the provisions of section eleven of this act: And provided further, That nothing in this section shall be so construed as to prohibit any person or persons from employing a guide to accompany him or them when fishing. Any person violating any of the provisions of this section, shall, on conviction as provided in section twenty-eight of this act, be subject to a fine of twenty dollars for each and every offense so committed.

Penalty.

Purchase or sale of brook trout.

Proviso.

When artificially propagated.

Guides.

Violations.

Fine.

Section 13. That it shall be unlawful to purchase, sell, or offer for sale, or have in possession, any fresh dead game fish, wherever caught, within this Commonwealth, or any fresh dead food fish, caught in the waters within this Commonwealth, except during the lawful period for catching the same, and the space of six days after such period has expired: Provided however, That nothing herein shall be so construed as to prohibit the sale of food or game fish, artificially propagated, by any person or persons under the provisions of section eleven of this act. Any person or persons violating any of the provisions of this section shall, on conviction thereof as provided in section twenty-seven of this act, be subject to a penalty of ten dollars for each fish.

Purchase, sale, or possession out of season.

Proviso.

Artificially propagated.

Violations.

Penalty.

Section 14. That it shall be unlawful to fish, or trespass with intent to fish, in or upon any waters, or beds or banks of any waters, or any lands controlled, owned or occupied by the Department of Fisheries; or willfully and maliciously destroy or damage any ponds, property, or appliances whatsoever, of the said Department; or to interfere or obstruct, pollute or diminish,

Trespass on hatchery waters.

the natural flow of water into or through such State hatchery or lands. Any person or persons violating any of the provisions of this section, shall, on conviction thereof in accordance with section twenty-seven of this act, be subject to a penalty of one hundred dollars or six months imprisonment, or both.

Section 15. That any domestic birds or fowls trespassing on any waters or lands controlled, used, or occupied, entirely for the artificial propagation of fish, may be killed by the owner or occupant thereof, or his agent in charge of the same, after having given five days' notice to the owners of said birds to prevent such trespassing: Provided further, That said owner or owners, occupant or agent, shall have the right to kill any wild birds or wild animals destructive to fish life whenever found on such grounds.

Section 16. That it shall be unlawful for any person to put or place in any waters within the Commonwealth any electricity, or any explosive or poisonous substances whatsoever, or any drug, or any poison bait, for the purpose of catching, taking, killing, or injuring fish; or to allow any dye-stuff, coal or gas tar, coal oil, sawdust, tan bark, cocculus indicus (otherwise known as fish berries), lime, vitriol, or any of the compounds thereof, refuse from gas-houses, oil-tanks, pipes, or vessels, or any deleterious, destructive, or poisonous substances of any kind or character, to be turned into, or allowed to run, flow, wash, or be emptied into, any of the waters aforesaid, unless it is shown to the satisfaction of Commissioner of Fisheries, or the court, that every reasonable and practicable means have been used to prevent the pollution of waters in question by the escape of deleterious substances. In the case of the pollution of waters by substances known to be injurious to fishes or to fish food, it shall not be necessary to prove that such substances have actually caused the death of any particular fish: Provided, That nothing in this section shall prohibit the use of explosive for engineering purposes, when a written permit has been given thereof by the proper national, state or municipal government. Any person violating any of the provisions of this section, shall, on conviction as provided in section twenty-seven of this act, be subject to a fine of one hundred dollars.

Violations.

Penalty.

Domestic birds and fowls.

Proviso.

Wild birds and animals.

Fishing with electricity, poisons, or explosives.

Pollution of waters.

Engineering purposes.

Violations.

Fine

Carnivorous fish.

Violation.

Fine.

Section 17. That it shall be unlawful to place in any waters within this Commonwealth inhabited by charr or any species of trout, without the consent of the owner or owners of the lands upon which such waters are located, and without the written consent of the Commissioner of Fisheries, any other carnivorous fish. Any person violating any of the provisions of this section, shall, on conviction thereof as provided in section twenty-seven of this act, be subject to a fine of fifty dollars.

Powers of Commissioner.	Section 18. That the Commissioner of Fisheries shall have the right to catch fish at any season of the year, and with any kind of nets, or devices not poisonous or explosive; and also the right to grant written permission so to do, for a period not longer than one year, to persons engaged in scientific research; and also to corporations, associations, person, or persons, for the purpose of propagation of fish or stocking waters therewith, or the removal of fish found by the Commissioner of Fisheries to be hurtful or injurious to other fish life: Provided, That those persons who are permitted to catch fish, as aforesaid, shall make return, in writing, to the said Commissioner of all fish caught by them and of the use made by them of the fish so caught.
Scientific research, etc.	
Proviso.	
Returns.	
Distribution and planting of fish.	Section 19. That it shall be the duty of the Commissioner of Fisheries to make free distribution or planting of the fish produced at the State fish hatcheries, or otherwise acquired, in the following order of preference: First. To the public waters of the Commonwealth, and to the waters within the Forestry Reserves belonging to the Commonwealth: Second. To the public school authorities and persons connected with institutions of learning, who may apply for the same for educational purposes, or for scientific research, and to persons applying for fish cultural and aquarium purposes and show ponds: Third. To the waters within this Commonwealth, of which the bed and banks are the subject of private ownership, upon the written application of one or more of the owners or lawful occupants thereof: Provided, That such waters be suitable for the fish applied for, and that the applicant or applicants shall agree, in such application, to allow lawful fishing by the public in the waters over their lands which are planted with fish upon such application, and that they, the said applicants, shall have and claim no right to eject or molest any persons lawfully fishing on their lands, on the banks of or over such waters, in a peaceful and orderly manner: Provided, That during the open season for game or food fish the owner, lessee, or occupant of the real estate through which or over which the stream so stocked with game or food fish shall pass, or the owner, lessee, or occupant of the bank of any natural lake or pond so stocked with game or food fish, shall hereafter not have the authority to forbid fishing along the banks or in the said stream or waters; but the person or persons so fishing shall be liable in trespass for any and all damage which he or they may do the said real estate or other property: Provided further, That all persons fishing on or over the land of others, by virtue of the provisions hereof, shall be liable for all damage they may cause during
Preference.	
Proviso.	
Public fishing.	
Proviso.	
Public fishing.	
Proviso.	

such occupation: Fourth. To the waters, last aforesaid, whose owners are non-residents and unknown, or who by habit and custom permit the public to fish therein: Provided, That such planting may, at the discretion of the said commissioner, be made without application therefor. That it shall be unlawful to apply to the Commissioner of Fisheries for any fish, if such applicant prohibits or prevents fishing by the general public in the waters flowing over his land; but nothing in this section shall be held to prevent the Commissioner of Fisheries from planting fish in suitable waters, without application. Any person who shall, by false representation, receive fish from the Department of Fisheries, and plant the same in waters where the public are not allowed to fish, shall, on conviction thereof as provided in section twenty-seven of this act, be subject to a fine of twenty-five dollars for each offense.

Damages.

Unlawful applications.

False representation.

Fine.

Section 20. That the Commissioner of Fisheries is authorized to set aside, at his discretion, such small streams as he may judge best as nursery streams, in which fishing shall be prohibited at all times in the year; said streams to be posted by the Department of Fisheries, at the outlet by a conspicuous notice, and also at intervals of three hundred yards: Provided, That before such streams shall be so designated and set aside, the owner or owners shall first give their consent in writing. If after any stream has been set aside, under the provisions of this section, any person fishing therein, shall, on conviction thereof as provided in section twenty-seven of this act, be subject to a penalty of twenty dollars.

Nursery streams.

Owners' consent.

Violations.

Fine.

Section 21. That before any person shall use, set, or fish with any of the following nets or devices for catching food fish, he shall first take out a license therefor from the treasurer of the county in which the person or persons reside, and for which he or they shall pay the following sums annually: For each seine net, two dollars; for each fish basket, one dollar. On making payment of the sum or sums named, such license fee shall be paid by the county treasurer forthwith to the Department of Fisheries, and the Department of Fisheries shall pay over the same into the State Treasury; and such license shall hold good for the calendar year in which it is issued. The county treasurer on receiving said license fee or fees shall issue, to the person or persons paying the same, a certificate, on one of the forms supplied to him by the Department of Fisheries, bearing the name and place of residence of each applicant, or applicants, and the name and number of the nets or devices permitted, and otherwise properly filled out; which said certificate or license shall permit the owner or owners

Nets or devices.

License fees.

Certificate.

	thereof to use the device or devices named for the next lawful season, in accordance with the provisions of this act, and a duplicate of each license shall be forwarded, with the license fee, to the Department of Fisheries. The certificate shall be shown to any fish warden, constable, or any other person or persons authorized to make arrests for any violation of any of the laws relating to fish and fishing in this Commonwealth. Any person or persons who shall use any of the above described devices without first taking out a license, shall, upon conviction as provided in section twenty-seven of this act, be subject to a fine of twenty dollars.
Violations.	
Fine.	
Removal of fish from device.	Section 22. That it shall be unlawful for any person or persons to remove fish from any licensed device or net without the authority of the owner or owners thereof, except that any person may return to the water any fish not authorized to be taken by such device, or to remove fish from any pond or tank of any fish hatchery without authority as aforesaid. Any person or persons violating any of the provisions of this section, shall, on conviction thereof as provided in section twenty-seven of this act, be subject to a fine of fifty dollars.
Violations.	
Fine.	
Depleted waters.	Section 23. That whenever at least two hundred citizens, in any county, shall, in writing, certify to the Commissioner of Fisheries that any stream or waters in the said county is nearly depleted of fish, and has been restocked, and asking that it or they be closed to fishing for a period, the said commissioner shall forward to said petitioners and others a blank form, setting forth questions regarding the condition of said stream or waters, which forms must be filled out and returned to the Department of Fisheries; and if the answers on said forms are of such a character as to convince the Commissioner of Fisheries that the petition should be granted, he is hereby authorized to prohibit all fishing in such streams or waters for a period of three years from the time of restocking: Provided, The said Commissioner of Fisheries shall first give public notice of such closing by posting such streams or waters with notices of such prohibition, and the period thereof, and publishing the same in two newspapers, published in the county where such stream or waters are located, for a period of three consecutive weeks, one time in each week. Any person catching and killing or fishing for any fish from any stream or waters closed under the provisions of this section, shall, on conviction thereof as provided in section twenty-seven of this act, be subject to a penalty of twenty dollars.
Statement.	
Prohibition.	
Notice.	
Violations.	
Fine.	
Duty of officers.	Section 24. That any fish commissioner, fish-warden, deputy warden, sheriff, deputy sheriff, constable, or any special officer, or any peace officer in this Common-

wealth is hereby authorized and commanded to proceed, with such force of the county as may be necessary, to destroy any device for catching fish used contrary to or prohibited by law, in any of the waters within this Commonwealth; and they are hereby authorized and commanded to arrest forthwith, and without warrant, any person or persons owning, placing, or using such devices, or violating any of the provisions of this act; and they are further authorized and commanded to apprehend and arrest, and immediately take, any person or persons, who may be guilty of such violations, before any justice of the peace, magistrate, or other legally constituted authority, and thereupon make charge of such violation of the law, or any provisions thereof; and the magistrate shall forthwith hear, and determine the charge, as provided in section twenty-eight of this act; and in case of any fish commissioner, fish warden, or any other officer named above, fails to prove his case, and the defendant or defendants are discharged, or in case the defendant or defendants are convicted and are sent to jail in lieu of the payment of fine or fines, penalty or penalties, the county in which the case is heard shall pay the costs. Such arrest may be also made on Sunday, or on any holiday, in which case the person or persons so arrested shall be taken before the proper officer, and proceeded against on the first lawful day following the arrest. Any sheriff, deputy sheriff, constable, special officer, or other peace officer of this Commonwealth, who shall refuse or neglect to proceed with sufficient force of the county to forthwith remove and destroy any existing devices illegally used for the catching of fish within his jurisdiction, after being notified in writing of the existence of such illegally used devices by the Commissioner of Fisheries; or who shall refuse or neglect to remove and destroy any such illegal device for catching fish within this Commonwealth, of which he shall have cognizance, shall, on conviction thereof as provided in section twenty-seven of this act, be subject to a fine of fifty dollars, or be imprisoned in the county jail for a period of not less than three months nor more than six months.

Destruction of illegal devices.

Arrests.

Charge and hearing.

Arrests on Sunday or holiday.

Refusal or neglect of officer.

Conviction.

Penalty.

Section 25. Any person or persons who shall, by threat, menace, or force, or in any manner, attempt to deter or prevent any fish warden, or other person authorized to make arrests for violation of the fish laws, from enforcing or carrying into effect any provisions of this act, or who shall resist arrest or the seizure of boats or nets illegally used, shall, on conviction thereof as provided in section twenty-seven of this act, be subject to a penalty of one hundred dollars, or, in default of payment of said fine, be committed to the county jail for a period of one hundred days.

Interference with or resisting officer.

Possession prima
facie evidence.

Section 26. That in all cases of arrest made for the violation of any of the provisions of this act, the possession of the fishes or of the nets, or the possession of or operation of any other device herein prohibited, shall be prima facie evidence of the violation of this act.

Authority of justices,
aldermen,
etc.

Section 27. That any justice of the peace, alderman or magistrate, upon information or complaint, made to him by affidavit of one or more persons, charging any person or persons with having violated any of the provisions of this act, is hereby authorized and required to issue his warrant, under his hand and seal, directed to any constable, peace officer, or warden, and cause such person or persons to be arrested and brought before such justice, alderman, or magistrate, who shall hear and determine the guilt or innocence of the person or persons so charged; and, if convicted upon such charge, shall be sentenced by said justice, alderman, or magistrate, severally, to pay the fine or fines, penalty or penalties, provided in this act for such violations, together with the costs of suit; the whole of said fine shall be paid over forthwith to the treasurer of the county in which the prosecution was brought, and said county treasurer shall pay over the same forthwith to the Commissioner of Fisheries, for the benefit of the Commonwealth: Provided, That in case the defendant or defendants shall neglect to pay, at once, the fine or fines so imposed, said defendant or defendants shall forthwith be sentenced to undergo imprisonment, in the county jail of the county where such conviction takes place, for a period of one day for each dollar of fine so imposed and unpaid, unless the defendant or defendants, upon conviction, shall give notice of intention to appeal, when such defendant or defendants shall be permitted to enter into good and sufficient recognizance to appear before such justice, alderman, or magistrate, on or before the expiration of five days, if such appeal is not taken by them, or on the final determination of such appeal if it be not sustained. for execution of sentence: Provided also, That all actions for any violation of any of the provisions of this act must be taken within one year from the time the offense was committed; and when necessary to properly conduct any case before any alderman, justice of the peace, magistrate, or any court, the Commissioner of Fisheries is authorized to employ legal counsel.

Warrants.

Hearing.

Penalty.

Proviso.

Imprisonment.

Appeal.

Bail.

Proviso.

Waters inhabited
by trout.

Section 28. That for the purpose of this act, any stream or water, or part thereof, within this Commonwealth, in which charr, or trout, are commonly fished for and caught, whether through the stocking of the stream, or whether native to such stream or water,

or part thereof, shall be deemed water or streams inhabited by trout. In case of a conflict of statement on this point, as to any stream or water, the matter shall be investigated by the Board of Fishery Commission, and its decision shall be final.

Decision.

Section 29. The Commissioner of Fisheries, by and with the advice and consent of the Board of Fishery Commission, shall have the power and authority to appoint thirty competent citizens of this Commonwealth as fish wardens. The said Commissioner of Fisheries shall, from time to time, by and with the advice and consent of the Board of Fishery Commission, designate one of such wardens as chief warden, who shall remain as such during the pleasure of the Commissioner of Fisheries, and he shall perform such duties as he may be assigned by the Commissioner of Fisheries. Said chief warden shall have the direction, control, and supervision of other wardens, under the direction of the Commissioner of Fisheries. Wardens so appointed shall hold office during the pleasure of the Commissioner of Fisheries, who may summarily remove any of their number, and appoint another competent citizen in his place, by and with the advice and consent of the Board of Fishery Commission. The wardens shall enforce all the laws of the Commonwealth, relating to fish and fishing, and the provisions supplementary thereto; and shall have power to execute all warrants and search warrants issued for the violation of the fish laws, and to serve subpoenas issued for the examination, investigation, or trial of all offenses against said laws; and said wardens shall be permitted to carry and use arms in the performance of their duties. They shall have power, without warrants, to search and examine any boat, conveyance, vehicle, fish box, basket, bag, coat, or other receptacle for fish, when they have reason to believe that any of the provisions of any law relating to fish have been violated; and said wardens shall seize and take possession of any and all fish which may have been caught, taken or killed at any time, in any manner or for any purpose, or had in possession or under control, or have been shipped or about to be shipped, contrary to any of the laws of this Commonwealth; and such fish shall be disposed of according to the order of the Commissioner of Fisheries. Each warden shall keep a record of his official acts, receipts and expenditures; and at the close of each month make a summary of such record, with such information in detail as may be necessary for the information of or be required by the Department of Fisheries, and report the same to the chief warden. The chief warden shall report to the Commissioner of Fisheries any negligence or

Fish wardens.

Chief warden.

Duties.

Removals.

Duties of wardens.

Search, examination, and seizure.

Record.

Report.

Reports of chief warden.

dereliction of duty or incompetency on the part of any of the other wardens, with the facts relating thereto; and he shall report monthly to the Commissioner of Fisheries his operations during the preceding month, and shall make such other reports as may be required of him by the Commissioner of Fisheries; and he shall make annually a report, in writing, of the operations of himself and subordinates during the year to the Board of Fishery Commission; and all wardens when in the performance of their duties shall have the power and authority to enter upon any land or water, and they shall have the power to demand and secure proper assistance in case of emergency. That each fish warden, except the chief warden, appointed in accordance with this section, shall receive as compensation for his services seventy-five dollars per month, and such allowance for expenses as may be deemed by the Board of Fishery Commission as just and reasonable; and the chief warden shall receive one hundred dollars per month, and such allowance for expenses as may be deemed by the Board of Fishery Commission as just and reasonable.

Power and authority of wardens.

Compensation.

Section 30. The Commissioner of Fisheries may on the written application of a properly organized fish protective association, or of any association or individuals owning or leasing waters, appoint one or more special fish wardens for the county in which the application is made; and all such appointments shall expire on the thirty-first day of May of each year: Provided also, That no special fish warden shall be entitled to any salary, or to any expenses or compensation from the Commonwealth, for his services, unless such special fish wardens should be detailed for duty by the Commissioner of Fisheries, in which case the Commissioner of Fisheries is authorized to make a per diem allowance for compensation, and reasonable expenses, out of any appropriation which may be made for the payment of wardens. The said allowance being in place of any claim for any part or share of any fine or fines, penalty or penalties, imposed or paid under the provisions of this act. The special fish wardens, so appointed, shall be clothed with the same power as the regular salaried wardens, and shall make report of the performance of their duties in the same manner.

Special wardens.

Proviso.

Powers and duties.

Bulletins.

Section 31. That the Commissioner of Fisheries, by and with the authority of the Board of Fishery Commission, shall have the right to issue bulletins relating to fish culture and fish protection, as in their judgment may be deemed for the best interests for the work of the Department of Fisheries, and he shall make report annually to the Governor of the operation of the Department.

Section 32. That persons engaged in catching fish for the market, or who may be engaged in the sale of fish, shall, on demand of the Commissioner of Fisheries, furnish at the close of each year a tabulated statement of their sales of fish and the gross amount of money realized; the said figures to be used by the Department of Fisheries entirely for statistical purposes, and no individual statement received by the Department of Fisheries shall be made public without the written consent of the owner. Any person who shall refuse to furnish such information, shall, on conviction thereof as provided in section twenty-seven of this act, be subject to a penalty of ten dollars for each and every offense.

Sale or marketing of fish.

Yearly statement.

Refusal.

Penalty.

Section 33. That all boats, and all nets of legal-sized mesh, used unlawfully and forfeited to the Department of Fisheries under any provisions of this act, shall be sold by the Commissioner of Fisheries, and the moneys received from such sale or sales be paid by him into the State Treasury, for the use of the Commonwealth. All unlawful nets or devices, not preserved for exhibition purposes by the Department of Fisheries, shall be destroyed by the order of the Commissioner of Fisheries. Record shall be made of all such sales or destruction, on the books of the Department.

Seized boats and nets.

Sale.

Unlawful nets and devices.

Section 34. The following acts and parts of acts of Assembly are intended to be supplied by this act, and the same are hereby repealed:—

Acts repealed so far as they relate to fish.

1. "An act to amend and consolidate the several acts relating to game and fish," approved the third day of June, Anno Domini one thousand eight hundred and seventy-eight.

Act of June 3, 1878.

2. A supplement to "An act to amend and consolidate the several acts relating to game and game fish," approved the third day of June, Anno Domini one thousand eight hundred and seventy-eight, changing the time for hunting and killing deer, squirrels, rabbits, wild turkeys, pheasants, prairie chickens," approved the tenth day of June, Anno Domini one thousand eight hundred and eighty-one; each and all the several sections thereof so far as they relate to fish.

Act of June 10, 1881.

3. "An act for the protection of salmon, black bass, and other food fishes, newly introduced into the rivers Delaware and Susquehanna and their tributaries, for the protection of these classes, also, against unlawful fishing, and to prohibit the introduction of predatory fishes into trout streams, and for other germane purposes," approved the twenty-fourth day of May, Anno Domini one thousand eight hundred and seventy-one.

Act of May 24, 1871.

Act of April 28,
1873.

4. "An act to provide for the appointment of a Board of Fish Commissioners, for construction of fish-ways, and for the propagation and protection of fish, and appropriating money for the same," approved the twenty-eighth day of April, Anno Domini one thousand eight hundred and seventy-three.

Act of May 14,
1874.

5. "An act regulating the appointment and pay of fish wardens, or water bailiffs," approved the fourteenth day of May, Anno Domini one thousand eight hundred and seventy-four.

Act of June 11,
1879.

6. "An act to provide for the propagation and protection of fish, and appropriating money therefor," approved the eleventh day of June, Anno Domini one thousand eight hundred and seventy-nine.

Act of June 11,
1885.

7. "An act to prevent the catching, killing, exposing for sale, or having in possession of speckled trout, except from the fifteenth day of April to the fifteenth day of July," approved the eleventh day of June, Anno Domini one thousand eight hundred and eighty-five.

Act of May 22,
1889.

8. "An act for the protection of shad and game fish in the State of Pennsylvania," approved the twenty-second day of May, Anno Domini one thousand eight hundred and eighty-nine; so much thereof as relates to fish and fishing in the waters within the Commonwealth.

Act of April 15,
1891.

9. "An act to provide for the appointment and increase the efficiency of the Commissioner of Fisheries of this Commonwealth," approved the fifteenth day of April, Anno Domini one thousand eight hundred and ninety-one.

Act of April 15,
1891.

10. "An act to amend an act, entitled 'An act for the protection of shad and game fish in the State of Pennsylvania, approved the twenty-second day of May, Anno Domini one thousand eight hundred and eighty-nine,' extending the time in which pike and pickerel may be caught," approved the fifteenth day of April, Anno Domini one thousand eight hundred and ninety-one.

Act of June 25,
1895.

11. "An act to permit the use of eel pots in the rivers and waters of this Commonwealth, other than trout streams," approved the twenty-fifth day of June, Anno Domini one thousand eight hundred and ninety-five.

Act of June 25,
1895.

12. "An act to prevent the placing in the waters of Pennsylvania of any torpedo, giant powder, nitroglycerine, dynamite, electricity, lime, or any poisonous or explosive substance of any kind, for the purpose of catching or taking fish; providing for a penalty for the violation thereof," approved the twenty-fifth day of June, Anno Domini one thousand eight hundred and ninety-five.

13. "An act to declare the species of fish which are game fish, and the species of fish which are commercially valuable for food, and to regulate the catching and encouraging the propagation of the same; to define the public waters within the State; to protect the waters within the State from improper and wasteful fishing; to provide for the appointment of fish commissioners and fish wardens, and to declare their official powers and duties; to encourage and regulate the artificial propagation of game and food fish by said State Fish Commissioners; to regulate the distribution of the same in the waters of the Commonwealth; to provide penalties and punishments for the violation of the provisions of this act," approved the twenty-ninth day of May, Anno Domini one thousand nine hundred and one.

Act of May 29,
1901.

14. "An act permitting the taking of carp, suckers, and mullets, by means of seine nets, from the waters of this Commonwealth, upon certain conditions," approved the twenty-sixth day of April, Anno Domini one thousand nine hundred and five.

Act of April 26,
1905.

15. "An act to amend an act approved May twenty-ninth, Anno Domini one thousand nine hundred and one, entitled 'An act to declare the species of fish which are game fish, and the species of fish which are commercially valuable for food, and to regulate the catching and encourage the propagation of the same; to define the public waters within the State; to protect the waters within the State from improper and wasteful fishing; to provide for the appointment of fish commissioners and fish wardens, and to declare their official powers and duties; to encourage and regulate the artificial propagation of game and food fish by said State Fish Commissioners; to regulate the distribution of the same in the waters of the Commonwealth; to provide penalties and punishments for the violation of the provisions of this act' by prescribing the number of tip ups to be used and the amount of fish to be taken in any one day and by any one man," approved the fourteenth day of March, Anno Domini one thousand nine hundred and seven.

Act of March 14,
1907.

16. "An act to regulate the taking of carp, suckers, mullets, and eels, in the waters of this Commonwealth, by means of gigs or spears; prohibiting the taking of all other fish by such means, and providing penalties for the violation of this act," approved the first day of May, Anno Domini one thousand nine hundred and seven.

Act of May 1,
1907.

17. "An act authorizing the taking of suckers, catfish, carp and eels, in the waters of this Commonwealth, through the use of fish baskets, and prescribing penalties for violation of its provisions," approved the twenty-ninth day of May Anno Domini one thousand nine hundred and seven.

Act of May 29,
1907.

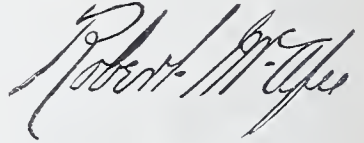
Repeal.

And, in addition to the above, all acts or parts of acts inconsistent with the provisions of this act, are hereby repealed.

APPROVED—The 1st day of May, A. D. 1909.

EDWIN S. STUART.

The foregoing is a true and correct copy of the act of the General Assembly No. 207.

A handwritten signature in cursive script, reading "Robert M. Lyne". The signature is written in dark ink and is positioned above the printed title of the Secretary of the Commonwealth.

Secretary of the Commonwealth.